MT LEGISLATIVE HISTORY

Chapter 21 1981

Bill (H) 124 S _____ Original bill & hist. ✓ C

H. Committee on Labor + Employment Relations

Hearing Date(s) Jan 15 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

Date Out Jan 15 ✓ C

S. Committee on Labor + Employment Relations

Hearing Date(s) Feb 05 ✓ C

Feb 10 ✓ C

_____ ___ C

_____ ___ C

Feb 10 ✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 124

INTRODUCED BY LORY

BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL

IN THE HOUSE

January 8, 1981	Introduced and referred to Committee on Labor.
January 16, 1981	Committee recommend bill do pass as amended. Report adopted.
January 19, 1981	Bill printed and placed on members' desks.
January 20, 1981	Second reading, do pass.
January 21, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 22, 1981	Introduced and referred to Committee on Labor and Employment Relations.
February 10, 1981	Committee recommend bill be concurred in. Report adopted.
February 12, 1981	Second reading, pass consideration.
February 13, 1981	Second reading, concurred in.
February 17, 1981	Third reading, concurred in. Ayes, 47; Nays, 3.

IN THE HOUSE

February 18, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 124

INTRODUCED BY Levy

BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS 39-71-118, 39-71-205, 39-71-308, 39-71-403, 39-71-701, 39-71-702, 39-71-725, 39-72-701, AND 39-72-706, MCA; AND REPEALING SECTIONS 50-75-101 THROUGH 50-75-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, and workman defined. (1) The terms "employee", "workman", or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay. Casual employees as defined by 39-71-116(3) are included as employees if they are not otherwise covered by

LC 0592/01

workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-302 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined above while they are on the premises of a public school or community college; or

(d) students enrolled and in attendance in programs of vocational technical education approved by the state board of public education at designated postsecondary vocational technical centers.

(2) If the employer is a partnership or sole proprietorship, such employer may elect to include as an employee within the provisions of this chapter any member of

INTRODUCED BILL
HB 124

such partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business. In the event of such election, the employer must serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered, and no partner or sole proprietor shall be deemed an employee within this chapter until such notice has been given. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the insurance carrier shall assume a salary or wage of such electing employee to be ~~$900 per month~~ not less than $900 a month and not more than 1 1/2 times the average weekly wage as defined in this chapter."

Section 2. Section 39-71-205, MCA, is amended to read:

"39-71-205. Division authorized to charge certain fees -- disposition of. (1) The division shall have power and authority to charge and collect ~~the following fees:~~ a fee

~~(a)~~ for copies of papers and records, ~~not required to be certified or otherwise authenticated by the division, 15 cents for each folio;~~ including certified copies of documents and orders filed in its office, sufficient to recover the cost of the material and the time expended, as fixed by the administrator.

~~(b) for certified copies of official documents and orders filed in its office, or of the evidence taken at any hearing, 20 cents for each folio.~~

(2) The division shall have power and authority to fix and collect reasonable charges for publications issued under its authority.

(3) The fees charged and collected under this section shall be paid monthly into the treasury of the state to the credit of the earmarked revenue fund and shall be accompanied by detailed statement thereof."

Section 3. Section 39-71-308, MCA, is amended to read:

"39-71-308. Neglect or refusal of public corporation to file monthly payroll reports -- arbitrary assessment by division. Whenever any public corporation insured by the state compensation insurance fund neglects or refuses to file ~~with the division monthly~~ prescribed payroll ~~report~~ reports of its employees, the division may levy an arbitrary assessment upon such public corporation in an amount of ~~$25~~ $75 for each such assessment, which assessments shall be collected in the manner provided in this chapter for the collection of assessments."

Section 4. Section 39-71-403, MCA, is amended to read:

"39-71-403. Plan three exclusive for state agencies -- election of plan by other public corporations. (1) Where a state agency is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this

chapter by any state agency shall be considered to be ordinary and necessary expense of the agency, and the agency shall make appropriation of and pay such sums into the ~~accident--or--administration-fund,-as-the-case-may-be,~~ state compensation insurance fund at the time and in the manner provided for in this chapter, notwithstanding that the state agency may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, employer; plan No. 2, insurer; or plan No. 3, state insurance fund; separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance. A public corporation electing compensation plan No. 1 is subject to the same provisions as a private employer electing compensation plan No. 1.

(3) A public corporation, other than a state agency, that elects plan No. 1 may establish a fund sufficient to pay the compensation and benefits provided for in this chapter and chapter 72 and to discharge all liabilities that reasonably incur during the fiscal year for which the election is effective. Proceeds from the fund must be used only to pay claims covered by this chapter and chapter 72

and for actual and necessary expenses required for the efficient administration of the fund.

(4) All money in the fund established under subsection (2) not needed to meet immediate expenditures must be invested by the governing body of the public corporation, and all proceeds of the investment shall be credited to the fund."

Section 5. Section 39-71-701, MCA, is amended to read:

"39-71-701. Compensation for injuries producing temporary total disability. (1) Weekly compensation benefits for injury producing total temporary disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed $110 beginning July 1, 1973. Beginning July 1, 1974, the maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total temporary disability benefits shall be paid for the duration of the worker's temporary disability.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act~~,-42-U.S.C.-301-(1935),~~ are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for such week~~,~~ which amount is to be calculated from the date of the

HB 124

disability social security entitlement."

Section 6. Section 39-71-702, MCA, is amended to read:

"39-71-702. Compensation for injuries producing total permanent disability. (1) Weekly compensation benefits for injury producing total permanent disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total permanent disability benefits shall be paid for the duration of the worker's total permanent disability.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act, ~~42 U.S.C. 301 (1935)~~, are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for such week, which amount is to be calculated from the date of the disability social security entitlement."

Section 7. Section 39-71-725, MCA, is amended to read:

"39-71-725. Payment of burial expense. There shall be paid, in case of the death of an employee, which death is the result of an accidental injury arising out of the employment and happening in the course of the employment, the reasonable burial expenses of the employee, not exceeding ~~$1,100~~ $1,400, and such payment is not a part of

the compensation which might be paid but is a benefit in addition to and separate and apart from compensation."

Section 8. Section 39-72-701, MCA, is amended to read:

"39-72-701. Compensation for total disability or death due to occupational disease other than pneumoconiosis. (1) The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease other than pneumoconiosis, or the beneficiaries and dependents of the employee in the case of death caused by an occupational disease other than pneumoconiosis, are entitled under this chapter shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time as is provided in cases of temporary total disability, permanent total disability, and in cases of injuries causing death under the Workers' Compensation Act.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act are payable because of the disease, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal as nearly as practical to one-half the federal periodic benefits for such week, which amount is to be calculated from the date of the disability social security entitlement."

Section 9. Section 39-72-706, MCA, is amended to read:

"39-72-706. Aggravation. (1) Where an occupational disease is aggravated by any other disease or infirmity not itself compensable or where disability or death from any other cause not itself compensable is aggravated, prolonged, accelerated, or in any wise contributed to by an occupational disease, the compensation payable under this chapter shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death as such occupational disease as a causative factor bears to all the causes of such disability or death.

(2) Where compensation is reduced a proportionate amount as in subsection (1) above and the worker receives disability social security benefits, the offset entitlement granted to the insurer shall be reduced in the same proportionate amount as the compensation as long as the worker continues to receive disability social security benefits."

Section 10. Repealer. Sections 50-75-101 through 50-75-107, MCA, are repealed.

-End-

HB 127

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
79 HB	Relates to the preference of Montana labor in public works contracts.	1/7	Harper	1/8	Do Pass as Amended	1/13
89 HB	Makes a person ineligible to receive unemployment compensation benefits for 3 months if gross income in the preceding three quarters is $24 000	1/7	Moore	1/13	DO NOT PASS	1/15
101 HB	To reduce the incidence of employers issuing bad checks to employees by prohibiting disqualification for unemployment benefits if this is reason for quitting.	1/8	Dozier	1/13	TABLE	1/20
118 HB	Provides for replacement of a neutral member on the Board of Personnel Appeals; etc.	1/8	Anderson	1/15	Do Pass as Amended	1/20
124 HB	Revises the laws relating to Workers' Compensation.	1/8	Lory	1/15	Do pass as Amended	1/15
136 HB	Excludes the requirement that private employers pay unpaid wages to employees within three days of termination of employment	1/9	Moore	1/20	Do Pass	1/20

MINUTES OF THE MEETING OF THE HOUSE LABOR AND INDUSTRY COMMITTEE
January 15, 1981

The Labor and Industry Committee convened at 12:30 p.m. on January 15, 1981, in Room 129 of the State Capitol, with Vice Chairman Underdal presiding and all members present, except Chairman Ellerd who was excused.

Vice Chairman Underdal opened the meeting to a hearing on the following bills: HBs 118 and 124.

HOUSE BILL 118

REPRESENTATIVE ROBERT ANDERSON, District 16, chief sponsor, said this bill deals with the Department of Labor and Industry's State Board of Personnel Appeals, which review filed grievances and make decisions. Rep. Anderson apologized for the need of extensive amendments and passed to each member a copy of the amended bill (EXHIBIT 1 of the minutes). He said the five member board has had difficulty getting all members together and meeting on a regular basis. This bill would provide three auxiliary members - one to represent labor, one to represent management and a neutral one. If any of the appointed regular members are unable to make a hearing, his auxiliary counterpart would sit in for him. This will enable the full board to meet on a regular basis. He said Bob Jensen and Dave Hunter were present at his request to give testimony and answer questions.

DAVID HUNTER, Commissioner of Labor and Industry, said he was in favor of the auxiliary board members. He said the Board of Pardons is handled this way. He said this particular board (Board of Personnel Appeals) differs from many other boards in that it has a specific makeup - needs to include members representing labor, and management and a neutral (whose vote is often needed to break a tie).

BOB JENSEN, Labor Department, said he would answer questions.

R. NADIEAN JENSEN, American Federation of State, County and Municipal Employees, Executive Council 9, spoke next in support and a copy of her testimony is EXHIBIT 2 and part of the minutes. He said they would also support the amended bill.

JAMES W. MURRY, Montana Secretary of the AFL-CIO, said they would like to go on record as supporting the bill.

RANDY SIEMERS, Operating Engineers, said this would expedite decisions and they support the bill.

Opponents - none.

Rep. Anderson closed. He said this will not increase the permanent size of the board. These members will only fill in if needed to get the job done.

Vice-Chairman Underdal asked for questions from the committee. Rep. Keyser objected to having the substitute members appointed by the Governor. He said in the original bill the board members selected the substitute neutral member. He felt this change made a questionable bill out of a good one. He felt this could overbalance the total board. Rep. Anderson in responding pointed out that line 19, page 1, of the original bill provides the board to be appointed by the Governor. He said this is a usual practice for most of the boards that function in the state. Rep. Keyser said his chief objection was having a brand new bill before them and having 8 people appointed. On request Mr. Hunter responded that this way both sides will have some assurance of who the board members will be. In response to a question by Rep. Keedy, Mr. Bob Jensen said the policy is the same members who hear a case will decide on it. Rep. Menahan brought out that the Senate has to approve board appointments.

HOUSE BILL 124

REPRESENTATIVE EARL LORY, District 99, chief sponsor, said it was at the request of the Workmen's Compensation Advisory Council that he was sponsoring the bill. He said it was an innocuous bill that made some minor changes in the laws relating to Workmen's Compensation laws. Rep. Lory went through the bill explaining the changes. He said he had requested Bill Palmer of the Division of Workmen's Compensation to be present to give testimony and answer questions.

NORM GROSFIELD, Independent Insurance Agents of Montana, said they support the bill and most especially the first change.

BILL PALMER, Labor and Industry Department, said he is on the council which is comprised of members from labor, insurance agents, private sector, division people and this council has checked through proposed bills - one veto and the council does not give its support. This bill has the council's support. Mr. Palmer requested the word "monthly" be struck on page 4, line 10.

JAMES W. MURRY, Executive Secretary of the AFL-CIO, said he has served on the Governor's Advisory Council. He said they support the bill.

Opponents - none. No questions from the committee.

EXECUTIVE SESSION

HOUSE BILL 124 - Rep. Keyser moved to strike "monthly' on page 4, line 10. This was approved unanimously with those present. Rep. Harrington moved the bill AS AMENDED DO PASS. Rep. Thoft seconded the motion. The motion carried unanimously with those present.

VISITORS' REGISTER

HOUSE Labor & Industry COMMITTEE

BILL 118 & 134

SPONSOR Please specify # of bill for or against Date 1/15/81

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Joe McClelland	Helena, MT	IND. INSURANCE AGENTS OF MT	124	
Tom Crosthwaite	Helena, MT.	IND. INSURANCE AGENTS OF MT	124	
Judy Semmens	Helena, MT.	Operating Engs	118	
Madison Jensen	Helena	AFSCME	118	
[illegible]	Helena	AFSCME	118	
[illegible]	Helena	Rep Dist 99	124	
[illegible]	Helena	Dept Workers Comp	134	
Emma W. Murry	Helena	Mont State AFL-CIO	118 124	
Gary Driscoll	Billings	Laborers Union	118	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH [illegible]

11

47TH LEGISLATIVE SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB #11	1/21/81	2/3/81	3/7/81					3/7/81	
HB #49	1/19/81	1/29/81	1/29/81				1/29/81		
HB #75	2/12/81	3/5/81	3/7/81						3/7/81
HB #76	1/26/81	2/3/81	2/3/81				2/3/81		
HB #77	1/12/81	1/20/81	1/22/81				1/22/81		
HB #79	2/12/81	3/5/81	3/7/81				3/7/81		
HB #118	1/27/81	2/10/81	2/10/81				2/10/81		
HB #124	1/22/81	2/5/81	2/10/81				2/10/81		
HB #283	2/18/81	3/3/81	3/7/81				3/7/81		
HB #344	2/5/81	3/3/81	3/3/81				3/3/81		
HB #414	2/18/81	3/5/81	3/19/81						3/19/81
HB #430	3/4/81	3/12/81	3/17/81				3/17/81		
HB #464	2/19/81	3/3/81	3/3/81				3/3/81		
HB #557	3/3/81	3/10/81	Stays in	Committee					
HB #750	3/3/81	3/10/81	3/10/81				3/10/81		
HJR #25	3/5/81	3/12/81	3/19/81				3/19/81		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

12

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 5, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on February 5, 1981, in Room 404 of the State Capitol at 1:15 p.m.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 313: Chairman Nelson called on Senator Aklestad, sponsor of SB 313, to explain the bill to the Committee. Senator Aklestad told the Committee that the main objective of the bill is to allow an individual to be self-employed when he wants to be.

PROPONENTS OF SENATE BILL 313: Mr. David Sward of Gallatin Gateway, Montana, representing Independent Contract Dealers for Kirby Vacuums, stated they support SB 313. He feels it is a person's constitutional right to be able to work for himself, and the bill clarifies the law. Mr. Sward's written testimony is on his witness sheet and is attached to the minutes.

Other proponents who were present at the hearing and rose in support of SB 313 are as follows:

Mr. Gerald C. Rapp of Fairfield, Montana, representing himself.
Mr. Howard Bish of Lincoln, Montana, representing himself.
Mr. Donald Wallace of Lincoln, Montana, representing himself.
Mr. Gene Wright of Lincoln, Montana, representing himself.
Mr. Jerry Biresch of Lincoln, Montana, representing Blackfoot Post Yard.
Mr. Elmo Bowlby of Lincoln, Montana, representing himself.
Mr. Harold Bouma of Choteau, Montana, representing Bouma Post Yard.

OPPONENTS OF SENATE BILL 313: Mr. James Murry, representing the Montana State AFL-CIO, stated they oppose SB 313 as an attempt to destroy the unemployment insurance system in Montana. His printed testimony is attached to the minutes.

Other opponents of SB 313 are as follows:

Mr. Joe Bossman of Butte, Montana, representing the Joint Council of Teamsters, stated they oppose SB 313.
Mr. Jerry Driscoll of Billings, Montana, representing the Laborer's Union Local 98. His testimony is attached.
Mr. Lonny Mayer of Missoula, Montana, representing UFCW.
Mr. Gregg Groepper, representing the Department of Labor, stated they have no position on the bill, but want to see workers, employers, and employees treated fairly.

CONSIDERATION OF SENATE BILL 318: Chairman Nelson introduced Senator Bob Brown, sponsor of SB 318, to the Committee, and Senator Brown explained the bill to the Committee. This bill is an act to provide for the posting of security in the form of a bond, cash deposit, or other manner prescribed by the workers' compensation insurance.

There were no proponents of SB 318 present at the hearing.

OPPONENTS OF SENATE BILL 318: Mr. William Palmer, representing the Division of Workers' Compensation, stated they oppose SB 318. The bill would present a burdensome workload on the Division, is unnecessary because the problem rarely arises, and the Division already has authority to carry out what the bill does.

Mr. Larry Huss, representing the Montana Contractors' Assoc., stated that this bill would create confusion, and if this bill is adopted, all businesses are going to be mandated to post this security in such fashion as the bill describes for only one person. Therefore, he would recommend a Do Not Pass on SB 313.

QUESTIONS ON SENATE BILL 318: Senator Aklestad asked how much a $500,000 bond would cost. Mr. Palmer stated that the minimum cost is $30 per year, and $20 a thousand.

Senator Keating asked how much money they were talking about for a premium. Mr. Palmer stated about $1,000 per year.

Mr. Huss stated they are now making mandatory what has been discretionary.

Chairman Nelson called the hearing closed on Senate Bill 318.

CONSIDERATION OF HOUSE BILL 124: Chairman Nelson introduced Rep. Earl Lory, sponsor of HB 124, to the Committee. Rep. Lory explained the bill to the Committee. He told the Committee that HB 124 is a housekeeping bill and is an act to generally revise the laws relating to workers' compensation.

PROPONENTS OF HOUSE BILL 124: Mr. Norman Grosfield, representing Independent Insurance Agents Association of Montana, stated they are in support of HB 124.

There were no opponents to HB 124 present at the hearing.

Rep. Lory stated that he would find someone to carry this bill on the floor if the bill is Concurred In.

QUESTIONS ON HOUSE BILL 124: Senator Goodover wondered about the increase in the penalty from $25 to $75.

Senator Anderson made a motion that HB 124 Be Concurred In.

Senator Goodover made a substitute motion that the Committee delay action on HB 124. On a voice vote to this substitute motion the only "no" votes were by Senators Anderson and Keating; therefore, no action was taken on HB 124 at this meeting.

ADJOURN: There being no further business, the meeting adjourned at 2:50 p.m.

Harold C. Nelson

Senator Harold C. Nelson, Chairman

mln

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date Feb 5

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

NAME: Gary Gregory DATE: 2/5/87

ADDRESS: ESD Bldg rm 412

PHONE: 449-3799

REPRESENTING WHOM? DEPT OF LABOR AND INDUSTRY

APPEARING ON WHICH PROPOSAL: SB 313 HB 124

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: SB-313 — No position - request that any changes not exclude a group of workers from unemployment insurance or unduly penalize any specific group of employees — list study that workes and employees and employers.

HB-124 — Support the bill & the work of the advisory committee.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

17

NAME: William R. Palmer DATE: 2/5/81

ADDRESS: 815 Front ST

PHONE: 449-2047

REPRESENTING WHOM? Division of Workers' Compensation

APPEARING ON WHICH PROPOSAL: AB 318 HB 124

DO YOU: SUPPORT? HB 124 AMEND? _____ OPPOSE? AB 318

COMMENTS: Will offer verbal testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Earl C Berg DATE: 2/5/81

ADDRESS: RT 5 Mille Lacs Rd

PHONE:

REPRESENTING WHOM? House District #99

APPEARING ON WHICH PROPOSAL: HB 124

DO YOU: SUPPORT? Carry. AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: James W. Murry DATE: 2-5-81

ADDRESS: P.O. Box 1176 Helena

PHONE: 442-1708

REPRESENTING WHOM? Mont. State AFL-CIO

APPEARING ON WHICH PROPOSAL: HB 124

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 10, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on February 10, 1981, in Room 404 of the State Capitol at 1:15 p.m.

ROLL CALL: All members of the Committee were present with the exception of Senator Ryan who was excused.

CONSIDERATION OF HOUSE BILL 118: Chairman Nelson introduced Representative Robert Anderson, sponsor of HB 118, to the Committee, and Rep. Anderson explained the bill to the Committee. This bill is an act providing for replacement of a neutral member on the Board of Personnel Appeals; and providing an immediate effective date. Rep. Anderson stated that this bill adds a fifth member to the Board of Personnel Appeals on an ad hoc basis--in addition to two members representing labor and two members representing management. They feel that by adding a fifth and neutral member to the Board it would move the process a little faster.

PROPONENTS OF HOUSE BILL 118: Mr. Gregg Groepper, representing the Department of Labor and Industry, stated they are in support of HB 118 and they feel it would help them in dealing with the backlog of cases before the Board. He stated that the problem comes in when the neutral member is unable to attend the meeting due to a conflict, etc., and they need five members present.

There were no other proponents present at the hearing.

OPPONENTS OF HOUSE BILL 118: Mr. Thomas Schneider, representing Montana Public Employees Assoc., stated they supported the bill in the House, but the bill has been changed and they cannot support this bill. They object to the new section 4--the Board appointed by the Governor. They feel a very dangerous precedent is being created. Mr. Schneider stated they would like to have Section 5 amended back in the bill.

QUESTIONS ON HOUSE BILL 118: Senator Goodover asked where the Board members were from. Mr. Groepper stated they try to get people from the Helena area, but this is not always the case.

Mr. Schneider stated that the new appointments on the Board were from Billings, Great Falls, and Kalispell.

Senator Goodover asked if the Board members could not attend meetings if they can't be replaced. He also asked if the Board

Senator Goodover moved that Senate Bill 226 Do Pass As Amended. The Committee voted unanimously (except for Sen. Ryan who was absent) that SENATE BILL 226 DO PASS AS AMENDED.

ACTION ON SENATE BILL 64: Senator Keating moved that Senate Bill 64 Do Pass. On a Roll Call Vote, the Committee voted 5-1 that SENATE BILL 64 DO PASS. Senator Norman was the only "no" vote. Senator Hafferman passed on the vote and Senator Ryan was absent.

ACTION ON HOUSE BILL 124: Senator Goodover moved that on page 4, line 16--the penalty be moved back to $25 rather than increased to $75. The proposed amendment failed 5-2 on a Roll Call Vote.

Senator Keating moved that House Bill 124 Be Concurred In. Senator Anderson seconded the motion. The Committee voted 6-1 that HOUSE BILL 124 BE CONCURRED IN. Senator Hafferman passed on the vote, and Senator Ryan was absent.

ACTION ON SENATE BILL 318: Senator Anderson moved that SB 318 Do Not Pass. The Committee voted 6-1 that SENATE BILL 318 DO NOT PASS. Senator Hafferman was the only dissenting vote. Senator Ryan was absent.

ADJOURN: There being no further business, the meeting adjourned at 2:20 p.m.

Harold C. Nelson

Senator Harold C. Nelson, Chairman

mln

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date Feb. 10

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN			✓
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 10, 19 81

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 124

Respectfully report as follows: That HOUSE Bill No. 124

BE CONCURRED IN
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 2/10/81 House Bill No. 124 Time 2:12

NAME	YES	NO
GARY C. AKLESTAD, VICE-CHAIRMAN		✓
MIKE ANDERSON		✓
PAT M. GOODOVER	✓	
WILLIAM HAFFERMAN	✓	
THOMAS F. KEATING		✓
BILL NORMAN		✓
PATRICK L. RYAN	absent	
HAROLD C. NELSON, CHAIRMAN		✓

Marjorie Richold
Secretary

Harold C. Nelson
Chairman

Motion: by Senator Goodover -- proposed amendment p.4, line 16 -- that the penalty be moved back to $25 rather than $75.

Amendment failed 5-2.

(include enough information on motion—put with yellow copy of committee report.)

25

HOUSE BILL NO. 124

INTRODUCED BY LORY

BY REQUEST OF WORKERS' COMPENSATION ADVISORY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS 39-71-118, 39-71-205, 39-71-308, 39-71-403, 39-71-701, 39-71-702, 39-71-725, 39-72-701, AND 39-72-706, MCA; AND REPEALING SECTIONS 50-75-101 THROUGH 50-75-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, and workman defined. (1) The terms "employee", "workman", or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay. Casual employees as defined by 39-71-116(3) are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-302 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined above while they are on the premises of a public school or community college; or

(d) students enrolled and in attendance in programs of vocational technical education approved by the state board of public education at designated postsecondary vocational technical centers.

(2) If the employer is a partnership or sole proprietorship, such employer may elect to include as an employee within the provisions of this chapter any member of

REFERENCE BILL

24

such partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business. In the event of such election, the employer must serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered, and no partner or sole proprietor shall be deemed an employee within this chapter until such notice has been given. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the insurance carrier shall assume a salary or wage of such electing employee to be ~~$900 per month~~ not less than $900 a month and not more than 1 1/2 times the average weekly wage as defined in this chapter."

Section 2. Section 39-71-205, MCA, is amended to read:

"39-71-205. Division authorized to charge certain fees -- disposition of. (1) The division shall have power and authority to charge and collect ~~the following fees:~~ a fee

~~(a)~~ for copies of papers and records, ~~not required to be certified or otherwise authenticated by the division, 15 cents for each folio~~ including certified copies of documents and orders filed in its office, sufficient to recover the cost of the material and the time expended, as fixed by the administrator.

~~(b) for certified copies of official documents and orders filed in its office, or of the evidence taken at any hearing, 20 cents for each folio.~~

(2) The division shall have power and authority to fix and collect reasonable charges for publications issued under its authority.

(3) The fees charged and collected under this section shall be paid monthly into the treasury of the state to the credit of the earmarked revenue fund and shall be accompanied by detailed statement thereof."

Section 3. Section 39-71-308, MCA, is amended to read:

"39-71-308. Neglect or refusal of public corporation to file ~~monthly~~ payroll reports -- arbitrary assessment by division. Whenever any public corporation insured by the state compensation insurance fund neglects or refuses to file ~~with the division monthly~~ prescribed payroll ~~report~~ reports of its employees, the division may levy an arbitrary assessment upon such public corporation in an amount of ~~$25~~ $75 for each such assessment, which assessments shall be collected in the manner provided in this chapter for the collection of assessments."

Section 4. Section 39-71-403, MCA, is amended to read:

"39-71-403. Plan three exclusive for state agencies -- election of plan by other public corporations. (1) Where a state agency is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this

chapter by any state agency shall be considered to be ordinary and necessary expense of the agency, and the agency shall make appropriation of and pay such sums into the ~~accident--or--administration-fund,-as-the-case-may-be,~~ state compensation insurance fund at the time and in the manner provided for in this chapter, notwithstanding that the state agency may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, employer; plan No. 2, insurer; or plan No. 3, state insurance fund; separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance. A public corporation electing compensation plan No. 1 is subject to the same provisions as a private employer electing compensation plan No. 1.

(3) A public corporation, other than a state agency, that elects plan No. 1 may establish a fund sufficient to pay the compensation and benefits provided for in this chapter and chapter 72 and to discharge all liabilities that reasonably incur during the fiscal year for which the election is effective. Proceeds from the fund must be used only to pay claims covered by this chapter and chapter 72

and for actual and necessary expenses required for the efficient administration of the fund.

(4) All money in the fund established under subsection (2) not needed to meet immediate expenditures must be invested by the governing body of the public corporation, and all proceeds of the investment shall be credited to the fund."

Section 5. Section 39-71-701, MCA, is amended to read:

"39-71-701. Compensation for injuries producing temporary total disability. (1) Weekly compensation benefits for injury producing total temporary disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed $110 beginning July 1, 1973. Beginning July 1, 1974, the maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total temporary disability benefits shall be paid for the duration of the worker's temporary disability.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act, ~~42 U.S.C. 301 (1935)~~, are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for such week, which amount is to be calculated from the date of the

disability social security entitlement."

Section 6. Section 39-71-702, MCA, is amended to read:

"39-71-702. Compensation for injuries producing total permanent disability. (1) Weekly compensation benefits for injury producing total permanent disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total permanent disability benefits shall be paid for the duration of the worker's total permanent disability.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act, ~~42 U.S.C. 301-1935~~, are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for such week, which amount is to be calculated from the date of the disability social security entitlement."

Section 7. Section 39-71-725, MCA, is amended to read:

"39-71-725. Payment of burial expense. There shall be paid, in case of the death of an employee, which death is the result of an accidental injury arising out of the employment and happening in the course of the employment, the reasonable burial expenses of the employee, not exceeding ~~$1,100~~ $1,400, and such payment is not a part of

the compensation which might be paid but is a benefit in addition to and separate and apart from compensation."

Section 8. Section 39-72-701, MCA, is amended to read:

"39-72-701. Compensation for total disability or death due to occupational disease other than pneumoconiosis. (1) The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease other than pneumoconiosis, or the beneficiaries and dependents of the employee in the case of death caused by an occupational disease other than pneumoconiosis, are entitled under this chapter shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time as is provided in cases of temporary total disability, permanent total disability, and in cases of injuries causing death under the Workers' Compensation Act.

(2) In cases where it is determined that periodic disability benefits granted by the Social Security Act are payable because of the disease, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal as nearly as practical to one-half the federal periodic benefits for such week, which amount is to be calculated from the date of the disability social security entitlement."

Section 9. Section 39-72-706, MCA, is amended to read:

"39-72-706. Aggravation. (1) Where an occupational disease is aggravated by any other disease or infirmity not itself compensable or where disability or death from any other cause not itself compensable is aggravated, prolonged, accelerated, or in any wise contributed to by an occupational disease, the compensation payable under this chapter shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death as such occupational disease as a causative factor bears to all the causes of such disability or death.

(2) Where compensation is reduced a proportionate amount as in subsection (1) above and the worker receives disability social security benefits, the offset entitlement granted to the insurer shall be reduced in the same proportionate amount as the compensation as long as the worker continues to receive disability social security benefits."

Section 10. Repealer. Sections 50-75-101 through 50-75-107, MCA, are repealed.

-End-

37